

111TH CONGRESS
2D SESSION

S. 4040

To preserve Medicare beneficiary choice by restoring and expanding the Medicare open enrollment and disenrollment opportunities repealed by section 3204(a) of the Patient Protection and Affordable Care Act.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2010

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To preserve Medicare beneficiary choice by restoring and expanding the Medicare open enrollment and disenrollment opportunities repealed by section 3204(a) of the Patient Protection and Affordable Care Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Beneficiary
5 Preservation of Choice Act of 2010”.

1 **SEC. 2. PRESERVATION OF MEDICARE BENEFICIARY**
 2 **CHOICE UNDER MEDICARE ADVANTAGE.**

3 (a) IN GENERAL.—Section 1851(e)(2) of the Social
 4 Security Act (42 U.S.C. 1395w–21(e)(2)) is amended by
 5 amending subparagraph (C), as amended by section
 6 3204(a) of the Patient Protection and Affordable Care Act
 7 (Public Law 111–148), to read as follows:

8 “(C) CONTINUOUS OPEN ENROLLMENT
 9 AND DISENROLLMENT FOR FIRST 3 MONTHS IN
 10 SUBSEQUENT YEARS.—

11 “(i) IN GENERAL.—Subject to clause
 12 (ii) and subparagraph (D), at any time
 13 during the first 3 months of a year, or, if
 14 the individual first becomes a Medicare
 15 Advantage eligible individual during a
 16 year, during the first 3 months of such
 17 year in which the individual is a Medicare
 18 Advantage eligible individual, a Medicare
 19 Advantage eligible individual may change
 20 the election under subsection (a)(1).

21 “(ii) LIMITATION OF ONE CHANGE
 22 DURING OPEN ENROLLMENT PERIOD EACH
 23 YEAR.—An individual may exercise the
 24 right under clause (i) only once during the
 25 applicable 3-month period described in
 26 such clause in each year. The limitation

1 under this clause shall not apply to
2 changes in elections effected during an an-
3 nual, coordinated election period under
4 paragraph (3) or during a special enroll-
5 ment period under paragraph (4).

6 “(iii) LIMITED APPLICATION TO PART
7 D.—The previous provisions of this sub-
8 paragraph shall only apply with respect to
9 changes in enrollment in a prescription
10 drug plan under part D in the case of an
11 individual who, previous to such change in
12 enrollment, is enrolled in a Medicare Ad-
13 vantage plan.”.

14 (b) CONFORMING AMENDMENT.—Section 1860D–
15 1(b)(1)(B)(iii) of such Act (42 U.S.C. 1395w–
16 101(b)(1)(B)(iii)) is amended by striking “, (C),”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply with respect to 2011 and suc-
19 ceeding years.

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